

DELEGATE JAMES (presiding): Delegate Byrnes, for what purpose do you rise?

DELEGATE BYRNES: Just to ask a question, if I may.

DELEGATE JAMES (presiding): Will the delegate yield?

DELEGATE WEIDEMEYER: If I may.

DELEGATE BYRNES: Did I understand you to say that the term "infamous" may include misdemeanors?

DELEGATE WEIDEMEYER: I said that now in my opinion some of our crimes are categorized in our criminal code as misdemeanors. I personally would consider them in the more serious categories. What the legislature will do in redefining them I do not know, but to my mind infamous imports the more serious crime.

DELEGATE BYRNES: The reason I asked, I am informed that the Baltimore County practice is simply to take felonies to the grand jury. If somewhere in the law we found that something was an infamous crime, not a felony, Baltimore County's practice to that extent would be unconstitutional.

DELEGATE WEIDEMEYER: Let me clear this up. In capital cases a man would have to go through the process of indictment, unless he waived. In what would be known as more serious or infamous crime, the legislature will define them in accordance with infamous crimes so that you will know which crimes by statutes come under this constitutional provision.

DELEGATE JAMES (presiding): Are you sure he can waive under the law?

DELEGATE WEIDEMEYER: Yes, he can.

DELEGATE JAMES (presiding): Are there federal decisions which say he cannot waive?

DELEGATE WEIDEMEYER: I am not talking about federal, but Maryland.

DELEGATE JAMES (presiding): The Court of Appeals of Maryland has said he may waive and other decisions say he cannot.

DELEGATE WEIDEMEYER: Under Maryland Rule 708 in those cases he must be indicted. A person charged with a felony must be prosecuted by a grand jury, under present Maryland rule, but under Maryland Rule 709, that defendant also may waive the indictment of a grand jury. As it is, if

we do not put this in, we will only be covered by Maryland rules.

We felt that rules could be changed and statutes could be changed, but this fundamental in our criminal jurisprudence and we felt should be placed in the Constitution.

DELEGATE JAMES (presiding): For what purpose does Delegate Byrnes rise?

DELEGATE BYRNES: A further question.

DELEGATE JAMES (presiding): Does the delegate yield?

DELEGATE WEIDEMEYER: Yes.

DELEGATE BYRNES: Do I understand this also is in conflict with Maryland rules, to the extent that it does not permit the waiver?

DELEGATE WEIDEMEYER: No, this does not prevent them from waiving. You can waive a lot of rights that the law says you are entitled to.

You have right to be tried. You have the right to be tried by a fair and impartial jury, but defendants after defendants waive that right and are tried by the court. It does not mean that it has to go on. It means that you have the right to have it if you want it.

DELEGATE JAMES (presiding): Delegate Byrnes.

DELEGATE BYRNES: I respectfully suggest that what it says is that no person shall be held. This does not say every person shall have the right. May I ask another question?

DELEGATE JAMES (presiding): Does the delegate yield?

DELEGATE WEIDEMEYER: Yes.

DELEGATE BYRNES: Would you object to the substitution of the word "felony" for "infamous" if this will bring it into conformity with the practices in the State and also, I think, recognize the work of our Commission on Revision of Criminal Laws.

DELEGATE JAMES (presiding): Delegate Weidemeyer has no authority to change the Committee Report.

DELEGATE WEIDEMEYER: Our Committee considered that. We had testimony before us, and considered it, and as I recall States Attorney Moylan said that this would work out all right.

DELEGATE JAMES (presiding): Delegate Marion, do you wish to ask a question?